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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,862	11/05/2003	Michael Resterhouse	FFC-001096 P2	7776

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THE WATSON INTELLECTUAL PROPERTY GROUP, PLC  
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SUITE 200  
HUDSONVILLE, MI 49426

EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/701,862

Applicant(s)

RESTERHOUSE ET AL.

Examiner

Kenneth E. Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. The disclosure is objected to because it is inappropriate to call element 41 a "handle member", since it is not handled. The term "bar" or "link" would be acceptable. Also, at the end of claim 8, the term "the slot of the lower surface of the at least one clamp" lacks proper antecedent basis.

Appropriate correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Keesling '854, who shows a separator with all of the recited limitations including a frame (figure 1), a post (122,118), a slotted clamp (126a,126b, figure 4), a link member (128), 1<sup>st</sup> & 2<sup>nd</sup> linkages (142,142), a clamp actuator (130,134,140), a blade (42) and a blade actuator (50,58).

The 1<sup>st</sup> & 2<sup>nd</sup> linkages are connected to the vertical post (122) via a bar (118) and pin (144). If it is argued that the 1<sup>st</sup> & 2<sup>nd</sup> linkages are not *directly* connected to a vertical post, Examiner notes that neither is Applicant's, since Applicant himself has an intervening element (48,50) and pin.

As seen in figure 5, the clamp actuator (130,134,140) is pivotally connected to the frame at one end (right end) and is pivotally connected to the clamp at the other end (left end) via the links (142). If it is argued that the clamp actuator is not *directly*

connected to the clamp at the left end, then it is noted that neither is Applicant's, since Applicant's himself has an intervening element (41).

Both the clamp and the clamp actuator pivot relative to the frame.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keesling '854, who shows a separator with most of the recited limitations.

Keesling's blade does not have the recited details. Examiner takes Official Notice (now taken as fact) that it is well known for traversing cutters to having concave blade surfaces for cutting in either direction. Examples of this are the patents to King '169 (see figure 3) and Eger '842 (semi-circular cutting edge in figure 5). Additional examples can be provided if needed. It would have been obvious to one of ordinary skill in the art to have modified Keesling by employing a cutter having opposed concave or semi-circular cutting edges, as is well known and taught by Eger and King, in order to help keep the workpiece vertically centered in the slot.

6. Applicant's arguments have been fully considered but they are not persuasive.

Applicant's addition of the 1<sup>st</sup> & 2<sup>nd</sup> linkages has overcome some of the rejections, but not the Keesling rejection. As seen above, the distinguishment of one set of links over a different set of links is a tricky task. It appears that the claims would benefit from further narrowing.

It is noted that Applicant has not corrected all of the objections from the previous action.


Made of record but not relied on are patents to Boda and Markwell showing pertinent clamp linkages.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson whose telephone number is 571-272-4512. The examiner can normally be reached Mon-Thurs, 7:30AM-5PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KP  
April 3, 2006

  
KENNETH E. PETERSON  
PRIMARY EXAMINER